

APPEAL NO. 042051
FILED OCTOBER 4, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 16, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that, because the claimant did not sustain a compensable injury, the claimant did not have disability. The hearing officer also determined that the employer did not tender a bona fide offer of employment (BFOE) to the claimant. The hearing officer's determination on the BFOE issue has not been appealed and has become final pursuant to Section 410.169. The claimant appeals the compensable injury and disability determinations, asserting that they are against the great weight of the evidence and the respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he was injured in the course and scope of employment and that he has had disability. Conflicting evidence was presented at the hearing. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The hearing officer, in the Background Information section of her decision and order, commented that she did not find the claimant's testimony credible. A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). Our review of the record reveals that the hearing officer's injury and disability determinations are supported by sufficient evidence and are not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**LEO MALO
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge